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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 **NORTHERN DIVISION**

11 **In re:**

12 **HVI Cat Canyon, Inc.,**

16 **Debtor.**

13 **CASE NUMBER: 9:19-bk-11573-MB**

14 **CHAPTER 11**

15 **OBJECTION OF THE UNITED STATES**
16 **TRUSTEE TO FEE APPLICATIONS**

17 **Date: January 30, 2020**

18 **Time: 10:00 a.m.**

19 **Ctrm: 201**

20 **TO THE HONORABLE MARTIN BARASH, UNITED STATES BANKRUPTCY JUDGE, THE**
21 **DEBTOR, DEBTORS' COUNSEL, THE CHAPTER 11 TRUSTEE, COUNSEL FOR THE CHAPTER**
22 **11 TRUSTEE AND OTHER PARTIES IN INTEREST:**

23
24 The United States Trustee (the "U.S. Trustee") has reviewed the Fee Applications filed in the
25 above-reference case and respectfully submits the following comments to said filings:

26 **1. General Comments**

27 This case was filed in 2019 in the United States Bankruptcy Court for the Southern District of New
28 York. Since then, it has been transferred to the Northern District of Texas, and then to the Central District
of California, Northern Division. The Debtor in Possession has been replaced by a Chapter 11 Trustee.
Obviously, there has been a need for a myriad of professionals to provide services in this case. There is a

1 concern that there are sufficient monies to pay professionals and pay the Debtor's post-petition obligations
2 going forward. The U.S. Trustee requests that the Chapter 11 Trustee report to the Court at the hearing on
3 the current financial status of the Debtor, including what monies will be available to the Debtor after the
4 proposed payments to professionals.

5 Given that the case is still in its early stages, the United States Trustee believes that none of any
6 fees granted should be classified as "final," except for the relatively modest fees of Cole Schotz. In
7 addition, the U.S. Trustee reserves the right to object to any final fees requested pertaining to any interim
8 fee awards.

9

10 **2. Chapter 11 Trustee, Michael A. McConnell**

11 The Chapter 11 Trustee is requesting fees based on the hours he worked as trustee, rather
12 than based on a percentage of disbursements as provided in 11 U.S.C. § 326. As a result, the U.S. Trustee
13 requests that the Chapter 11 Trustee provide a supplemental pleading that provides a request for fees based
14 on a percentage of his disbursements.

15

16 **3. Danning, Gill, Israel & Krasnoff**

17 The UST has no additional comments regarding this Fee Application.

18

19 **4. CR3 Partners, LLP**

20 The Employment Application and the order providing for the employment of CR3 cited
21 language employing CR3 as Restructuring/Financial Advisors to the Chapter 11 Trustee. However, this
22 Fee Application seeks fees as "Chief Restructuring Officer and Financial Advisor to the Chapter 11
23 Trustee." To be clear, the U.S. Trustee considers the Chapter 11 Trustee as the "Chief Restructuring
24 Officer." In any event, CR3 and Tim Skillman himself was not employed by the Court as a Chief
25 Restructuring Officer. As a result, any order should not grant fees to CR3 in that capacity, but merely as
26 the Restructuring Officer and Financial Advisor to the Chapter 11 Trustee."

1 5. **Weltman & Moskowitz, LLP**

2 Due to the fact that there are no free and clear funds available to pay this professional, and that it is
3 impossible to ascertain the reasonableness of their fees given the current financial posture of the Debtor,
4 the U.S. Trustee believes that a hearing on the fees of former counsel to the Debtor should be postponed to
5 a later date.

6 7. **Pachulski, Stang, Ziehl & Jones, LLP**

8 The UST is concerned regarding the magnitude of the fees requested in the case, and believes any
9 award of fees should be withheld until funds that are free and clear become available in this case.

10 11. **Cole Shotz PC**

12 Given the fact that this professional is no longer providing services to the Committee, and that the
13 requested fees are relatively modest, the U.S. Trustee has no objection to this Fee Application.

14 15. **Conway MacKenzie, Inc.**

16 The U.S. Trustee objects to the request for Final Fees for this professional. The request for fees is
17 over \$107,000.00. The U.S. Trustee believes any award of fees should be withheld until funds that are
18 free and clear become available in this case.

19 20. **Dore, Rothberg, McKay**

21 The U.S. Trustee does not have an objection to this Fee Application.

22 23. Dated: January 16, 2020

24 PETER C. ANDERSON
25 UNITED STATES TRUSTEE

26 By: /s/ Brian D. Fittipaldi
27 Brian D. Fittipaldi
28 Trial Attorney

1 **PROOF OF SERVICE OF DOCUMENT**

2 I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business
3 address is: 1415 State Street, Santa Barbara, CA 93101

4 A true and correct copy of the foregoing document entitled: Objection*** will be served or was served (a)
5 on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated
6 below:

7 **1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to
8 controlling General Orders and LBR, the foregoing document will be served by the court via NEF and
9 hyperlink to the document. On **January 16, 2020**, I checked the CM/ECF docket for this bankruptcy case
10 or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List
11 to receive NEF transmission at the email addresses stated below:

12 **Brian Fittipaldi: brian.fittipaldi@usdoj.gov**

13 **2. SERVED BY UNITED STATES MAIL:**

14 On **January 16, 2020**, I served the following persons and/or entities at the last known addresses in this
15 bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope
16 in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here
17 constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the
18 document is filed.

19 Service information continued on attached page

20 **3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**
21 (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on
22 **January 16, 2020**, I served the following persons and/or entities by personal delivery, overnight mail
23 service, or (for those who consented in writing to such service method), by facsimile transmission and/or
24 email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight
25 mail to, the judge will be completed no later than 24 hours after the document is filed.

26 **U.S. Bankruptcy Court—Northern Division**

27 The Honorable Martin R. Barash
28 United States Bankruptcy Court
Central District of California
21041 Burbank Blvd., Ste. 342
Woodland Hills, CA 91367

29 Service information continued on attached page

30 I declare under penalty of perjury under the laws of the United States that the foregoing is true and
31 correct.

32 January 16, 2020

33 Brian D. Fittipaldi

34 Date

35 Printed Name

36 /s/Brian D. Fittipaldi

37 Signature